

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GIL CROSTHWAITE, in capacity)
as Trustee, et al.,)
Plaintiff(s),)
v.)
MARK PARR, individually and)
DBA Tri Valley Sweeping,)
Defendant(s).)
No. C05-0591 SBA (BZ)
**ORDER SCHEDULING COURT TRIAL
AND PRETRIAL MATTERS**

Following the Case Management Conference, **IT IS HEREBY ORDERED** as follows:

1. DATES

Trial Date: Monday, 5/29/2007, 3 days

Pretrial Conference: **Tuesday, 5/8/2007, 4:00 p.m.**

Last Day to Hear Dispositive Motions: **Wednesday, 4/18/2007**

Last Day for Expert Discovery: **Friday, 3/9/2007**

Last Day for Expert Disclosure: **Friday, 3/2/2007**

Close of Non-expert Discovery: **Friday, 2/23/2007**

2. DISCLOSURE AND DISCOVERY

1 The parties are reminded that a failure to voluntarily
2 disclose information pursuant to Federal Rule of Civil Procedure
3 26(a) or to supplement disclosures or discovery responses
4 pursuant to Rule 26(e) may result in exclusionary sanctions.
5 Thirty days prior to the close of non-expert discovery, lead
6 counsel for each party shall serve and file a certification that
7 all supplementation has been completed.

8 In the event a discovery dispute arises, **lead counsel** for
9 each party shall meet in person or, if counsel are outside the
10 Bay Area, by telephone and make a good faith effort to resolve
11 their dispute. Exchanging letters or telephone messages about
12 the dispute is insufficient. The Court does not read subsequent
13 positioning letters; parties shall instead make a
14 contemporaneous record of their meeting using a tape recorder or
15 a court reporter.

16 In the event they cannot resolve their dispute, the parties
17 must participate in a telephone conference with the Court **before**
18 filing any discovery motions or other papers. The party seeking
19 discovery shall request a conference in a letter served on all
20 parties not exceeding two pages (with no attachments) which
21 briefly explains the nature of the action and the issues in
22 dispute. Other parties shall reply in similar fashion within
23 two days of receiving the letter requesting the conference. The
24 Court will contact the parties to schedule the conference.

25 3. **MOTIONS**

26 Consult Civil Local Rules 7-1 through 7-5 and this Court's
27 standing orders regarding motion practice. Motions for **summary**
28 **judgment** shall be accompanied by a statement of the material

1 facts not in dispute supported by citations to admissible
2 evidence. The parties shall file a joint statement of
3 undisputed facts where possible. If the parties are unable to
4 reach complete agreement after meeting and conferring, they
5 shall file a joint statement of the undisputed facts about which
6 they do agree. Any party may then file a separate statement of
7 the additional facts that the party contends are undisputed. A
8 party who without substantial justification contends that a fact
9 is in dispute is subject to sanctions. A Chambers copy of all
10 briefs shall be submitted on a diskette formatted in WordPerfect
11 6.1, 8, 9 or 10 (Windows) or WordPerfect 5.1 (DOS).

12 4. PRETRIAL CONFERENCE

13 Not less than thirty days prior to the date of the pretrial
14 conference, the parties shall meet and take all steps necessary
15 to fulfill the requirements of this Order.

16 Not less than twenty days prior to the pretrial conference,
17 the parties shall: (1) serve and file a joint pretrial
18 statement, containing the information listed in **Attachment 1**,
19 and a proposed pretrial order; (2) serve and file trial briefs,
20 Daubert motions, proposed findings of fact and conclusions of
21 law, and statements designating excerpts from discovery that
22 will be offered at trial (specifying the witness and page and
23 line references); (3) exchange exhibits, agree on and number a
24 joint set of exhibits and number separately those exhibits to
25 which the parties cannot agree; (4) deliver all marked trial
26 exhibits directly to the courtroom clerk, Ms. Scott; (5) deliver
27 one extra set of all marked exhibits directly to Chambers; and
28 (6) submit all exhibits in three-ring binders. Each exhibit

1 shall be marked with an exhibit label as contained in
2 **Attachment 2.** The exhibits shall also be separated with
3 correctly marked side tabs so that they are easy to find.

4 No party shall be permitted to call any witness or offer
5 any exhibit in its case in chief that is not disclosed at
6 pretrial, without leave of Court and for good cause.

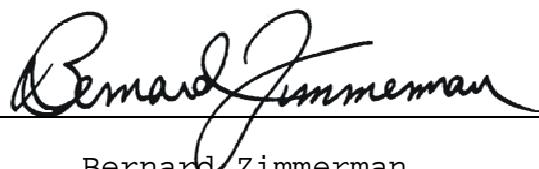
7 Lead trial counsel for each party shall meet and confer in
8 an effort to resolve all disputes regarding anticipated
9 testimony, witnesses and exhibits. All Daubert motions and
10 objections will be heard at the pretrial conference. Not less
11 than ten days prior to the pretrial conference, the parties
12 shall serve and file any objections to witnesses or exhibits or
13 to the qualifications of an expert witness. Daubert motions
14 shall be filed and served not less than twenty days prior to the
15 conference. Oppositions to Daubert motions shall be filed and
16 served not less than ten days prior to the conference. There
17 shall be no replies.

18 All motions and proposed findings of fact and conclusions
19 of law, and trial briefs shall be accompanied by a floppy
20 diskette containing a copy of the document formatted in
21 WordPerfect 6.1, 8, 9 or 10 (Windows) or WordPerfect 5.1 (DOS).

22 At the time of filing the original with the Clerk's Office,
23 two copies of all documents (but only one copy of the exhibits)
24 shall be delivered directly to Chambers (Room 15-6688).
25 Chambers' copies of all pretrial documents shall be three-hole
26 punched at the side, suitable for insertion into standard,
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28

1 three-ring binders.

2 Dated: December 5, 2006



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4 Bernard Zimmerman
5 United States Magistrate Judge
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ATTACHMENT 1

The parties shall file a joint pretrial conference statement containing the following information:

(1) The Action.

- (A) Substance of the Action. A brief description of the substance of claims and defenses which remain to be decided.
- (B) Relief Prayed. A detailed statement of each party's position on the relief claimed, particularly itemizing all elements of damages claimed as well as witnesses, documents or other evidentiary material to be presented concerning the amount of those damages.

(2) The Factual Basis of the Action.

- (A) Undisputed Facts. A plain and concise statement of all relevant facts not reasonably disputable, as well as which facts parties will stipulate for incorporation into the trial record without the necessity of supporting testimony or exhibits.
- (B) Disputed Factual Issues. A plain and concise statement of all disputed factual issues which remain to be decided.
- (C) Agreed Statement. A statement assessing whether all or part of the action may be presented upon an agreed statement of facts.
- (D) Stipulations. A statement of stipulations requested or proposed for pretrial or trial purposes.

(3) Trial Preparation.

A brief description of the efforts the parties have made to resolve disputes over anticipated testimony, exhibits and witnesses.

(A) Witnesses to be Called. In lieu

1 of FRCP 26(a)(3)(A), a list of
2 all witnesses likely to be
3 called at trial, other than
4 solely for impeachment or
5 rebuttal, together with a brief
6 statement following each name
7 describing the substance of the
8 testimony to be given.

9

10 (B) Estimate of Trial Time. An
11 estimate of the number of court
12 days needed for the presentation
13 of each party's case, indicating
14 possible reductions in time
15 through proposed stipulations,
16 agreed statements of facts, or
17 expedited means of presenting
18 testimony and exhibits.

19 (C) Use of Discovery Responses. In
20 lieu of FRCP 26(a)(3)(B), cite
21 possible presentation at trial
22 of evidence, other than solely
23 for impeachment or rebuttal,
24 through use of excerpts from
25 depositions, from interrogatory
26 answers, or from responses to
27 requests for admission. Counsel
28 shall state any objections to
use of these materials and that
counsel has conferred respecting
such objections.

29 (D) Further Discovery or Motions. A
30 statement of all remaining
31 motions, including Daubert
32 motions.

33 (4) **Trial Alternatives and Options.**

34 (A) Settlement Discussion. A
35 statement summarizing the status
36 of settlement negotiations and
37 indicating whether further
38 negotiations are likely to be
39 productive.

40 (B) Amendments, Dismissals. A
41 statement of requested or
42 proposed amendments to pleadings
43 or dismissals of parties, claims
44 or defenses.

45 (C) Bifurcation, Separate Trial of
46 Issues. A statement of whether
47 bifurcation or a separate trial

of specific issues is feasible and desired.

(5) **Miscellaneous.**

Any other subjects relevant to the trial of the action, or material to its just, speedy and inexpensive determination.

ATTACHMENT 2

USDC
Case No. CV05-00591 BZ
JOINT Exhibit No. _____
Date Entered

USDC
Case No. CV05-00591 BZ
JOINT Exhibit No. _____
Date Entered

Signature

Signature

USDC
Case No. CV05-00591 BZ
JOINT Exhibit No. _____
Date Entered

USDC
Case No. CV05-00591 BZ
JOINT Exhibit No. _____
Date Entered

Signature

Signature

USDC
Case No. CV05-00591 BZ
PLNTF Exhibit No. _____
Date Entered

USDC
Case No. CV05-00591 BZ
PLNTF Exhibit No. _____
Date Entered _____

Signature

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USDC
Case No. CV05-00591 BZ
DEFT Exhibit No. _____
Date Entered

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